

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to contracts and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 2, “Contracting Out Department of Human Services Employees and Property,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 218.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 225C.4.

Purpose and Summary

The Department is updating the administrative rules for entering into contracts with Department employees in a service program or for the use of buildings and grounds of state institutions. This will allow the rules to come into alignment with current practices and will also eliminate outdated definitions.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 18, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **441—2.1(23A,225C)**, definitions of “Division,” “Lessee,” “State institutions” and “Superintendents,” as follows:

“*Division*” includes the divisions of mental health and ~~developmental disabilities~~ disability services; and adult, children and family services.

“*Lessee*” means a nonprofit provider of services or other approved activity or other nonprofit entity as defined by Iowa Code chapter 504A that has been permitted to lease space in certain buildings or grounds on one or more of the mental health institutes, state ~~hospital schools~~ resource centers, the ~~Iowa Juvenile Home at Toledo, Iowa, or the State Training School~~ state training school at Eldora, Iowa, or the civil commitment unit for sexual offenders at Cherokee, Iowa, from the department.

“*State institutions*” (also referred to as campuses), for the purposes of this chapter, include: the Glenwood and Woodward state ~~hospital schools~~ resource centers; the Cherokee, ~~Clarinda, and Independence, and Mt. Pleasant~~ mental health institutions; ~~the Iowa Juvenile Home in Toledo; and the State Training School~~ state training school in Eldora; and the civil commitment unit for sexual offenders in Cherokee.

“*Superintendents*” are the administrators of these state institutions as defined by Iowa Code chapter 218 as well as those administrators appointed by the director of the department of human services pursuant to Iowa Code ~~chapters chapter 233A and 233B~~ at the ~~Iowa Juvenile Home in Toledo and the State Training School~~ state training school in Eldora.

ITEM 2. Amend subrule 2.5(1) as follows:

2.5(1) Referral to contract manager: A campus superintendent or designee may show available space to a potential lessee but has no authority to approve any leasing arrangements or to commit buildings or grounds to potential lessees. Superintendents shall notify the contract manager if contacted by a potential lessee. If space is available or expected to be available on the campus, the superintendent shall direct all entities interested in pursuing lease arrangements to ~~write~~ contact the contract manager in the department's central office.

ITEM 3. Amend subrule 2.5(3) as follows:

2.5(3) Evaluation of proposals. The contract manager, in collaboration with the respective division administrator and the respective superintendents, shall evaluate all proposals to determine if they meet the general principles identified above. The ~~contract manager~~ division administrator in collaboration with the respective superintendent(s) shall recommend whether to proceed with the leasing process to the director or designee. The contract manager shall notify the potential lessee in writing of the director's or designee's decision and, if applicable, identify the reasons for denial. All decisions are considered final and binding and are not subject to appeal.